

Message Text

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SUBJECT: ISRAELI PETROLEUM-RELATED ACTIVITIES IN OCCUPIED
EGYPTIAN TERRITORY

REF: CAIRO 13094

1. DEPARTMENT OFFICERS MET WITH GOE LEGAL ADVISER EL ARABY,
JUNE 13 FURTHER TO DISCUSS ISSUES RELATED TO ISRAELI PETRO-
LEUM-RELATED ACTIVITIES IN OCCUPIED EGYPTIAN TERRITORY. AT
EL ARABY'S INVITATION, JAMES OF AMOCO AND CLAGGET OF COV-
INGTON AND BURLING ALSO WERE PRESENT.

CONFIDENTIAL

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PAGE 02 STATE 154423

2. EL ARABY STATED THAT GOE HAD NOT YET REACHED DECISION
ON WHETHER OR NOT TO PRESS ISSUE AT UNGA. HE SOLICITED OUR
VIEWS. DEPARTMENT OFFICERS TOOK LINE THAT SUCH APPROACH
WOULD NOT APPEAR HELPFUL. ALTHOUGH IT IS LIKELY THAT EGYPT
COULD ACHIEVE NECESSARY SUPPORT FOR PASSAGE OF A CONDEMN-
TORY RESOLUTION, THIS WOULD HAVE LITTLE PRACTICAL EFFECT IN
TERMS OF HALTING ISRAELI ACTIVITY. CONTRARILY, GOI POSITION

PROBABLY WOULD BE HARDENED BY POLITICIZING ISSUE AT UNGA. LIKEWISE, DETRACTORS OF SADAT'S POLICIES WOULD BE QUICK TO POINT TO THIS AS YET ANOTHER INDICATION OF AN EGYPTIAN MOVE AWAY FROM DIRECT NEGOTIATIONS. EL ARABY RECOGNIZED VALIDITY OF THESE POINTS AND ACKNOWLEDGED THAT VALUE OF UNGA ACTION WOULD BE ESSENTIALLY POLITICAL (I.E. FOCUSING INTERNATIONAL ATTENTION ON THIS ISSUE WITH PRESUMED BROAD SUPPORT FOR GOE POSITION); FURTHERMORE, SUCH VALUE WOULD BE SIGNIFICANTLY DIMINISHED IF USG DID NOT SUPPORT RELEVANT RESOLUTION. IN LATTER REGARD, EL ARABY NOTED OUTCOME OF LAST YEAR'S UNGA DEBATE ON SETTLEMENTS ISSUE, AND LEFT US WITH IMPRESSION THAT IF USG SUPPORT NOT FORTHCOMING, GOE MIGHT NOT PURSUE THIS OPTION. HE STRESSED THAT GOE WOULD NOT PUT SUCH A RESOLUTION FORWARD WITHOUT CONSULTING US.

3. DISCUSSION NEXT TURNED TO AN INFORMAL EXCHANGE OF VIEWS ON MERITS OF SEEKING SOLUTION TO THIS DISPUTE THROUGH JUDICIAL OR ARBITRAL SETTLEMENT. IN DISCUSSION IMMEDIATELY PRECEDING THIS MEETING, JAMES AND CLAGGET STRONGLY HAD URGED THAT EGYPT MAKE OFFER TO SUBMIT CASE TO ICJ. PRIMARY ADVANTAGE OF SUCH AN OFFER WOULD BE TO DEMONSTRATE EGYPT'S CONFIDENCE IN MERITS OF ITS LEGAL POSITION. FURTHER;GOI WOULD BE HARD PRESSED TO REFUSE OFFER TO SUBMIT THIS NARROW ISSUE. DEPTOFFS EXPRESSED BELIEF THAT GOI WOULD RESPECT RELEVANT ICJ DECISION EVEN IF THIS REQUIRED CESSATION OF DRILLING AND PRODUCTION ACTIVITIES. WERE GOI

CONFIDENTIAL

PAGE 03 STATE 154423

TO REFUSE TO AGREE TO ARBITRATION, IMPLICATION WOULD BE CLEAR THAT THEY LACKED CONFIDENCE IN THEIR CASE; EVEN SUCH A NEGATIVE RESULT WOULD BE POLITICALLY MORE SUPPORTIVE OF EGYPT (PARTICULARLY IN U.S. AND WITH ISRAELI PUBLIC OPINION) THAN WOULD BE UNGA CONDEMNATION OF ISRAEL. EGYPT WOULD, OF COURSE, HAVE TO WEIGH RISK OF COURT RULING ADVERSE TO GOE POSITION. HOWEVER, LOSS ON NARROW ISSUE OF THIS NATURE WOULD NOT BE MATERIALLY WORSE FOR EGYPT THAN CONTINUING ISRAELI ACTIVITY ALONG PRESENT LINES. EGYPT STILL COULD SEEK POLITICAL RESOLUTION IN CONTEXT OF OVERALL SETTLEMENT. COMPANY LAWYERS POINTED OUT THAT RECOURSE TO ICJ VIA ISRAEL-EGYPT AGREEMENT OPENED UP POSSIBILITY OF COURT ORDERING INTERIM RELIEF PENDING SETTLEMENT OF SUIT; IF NOT INFORM OF SUSPENSION OF ISRAELI OPERATIONS, SUCH RELIEF SHOULD AT LEAST RESULT IN KEEPING TRACK OF AMOUNTS TAKEN AND PLACEMENT OF PROCEEDS IN ESCROW.

4. EL ARABY POINTED OUT PROBLEMS HIS GOVERNMENT WOULD HAVE IN SUBMITTING ISSUE TO ICJ. FIRST, IT MIGHT SUGGEST THAT ISRAEL'S CLAIMS HAD SOME LEGITIMACY. SECOND, IT MIGHT IMPLY THAT EGYPT DID NOT THINK THE PEACE PROCESS WAS GOING TO PRODUCE QUICK RESULTS. FURTHER, IT MIGHT BE IN-

TERPRETED AS RECOGNITION OF ISRAEL BY GOE, A RECOGNITION THEY DENY WAS GIVEN THROUGH SINAI II ACCORDS OR SADAT VISIT (ON LATTER POINT, HE CITED NIXON TRIP TO CHINA AS A PARALLEL EXAMPLE.) FINALLY EGYPTIANS MIGHT BE CRITICIZED IN SOME ARAB CIRCLES FOR PROCEEDING TO SEPARATE AND SETTLE AN ISSUE WITH ISRAEL OF EXCLUSIVE INTEREST TO EGYPT. DEPT-OFFS NOTED THAT, EVEN AFTER A PEACE SETTLEMENT EGYPT WOULD NEED A JUDICIAL DETERMINATION IN ITS FAVOR IF IT HOPED TO OBTAIN COMPENSATION FOR THE OIL TAKEN. HENCE THIS COURSE DID NOT IMPLY LACK OF CONFIDENCE IN THE PEACE PROCESS, BUT RATHER IS A MATTER WITH A CLEARLY JUDICIAL ANGLE. AS TO RECOGNITION OF GOI, DEPTOFFS POINTED OUT THAT INTENT TO RECOGNIZE WAS AS EASILY DENIABLE RE SUBMISSION OF DISPUTE TO ICJ AS RE PRESIDENTIAL VISIT TO JERUSALEM.

CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STATE 154423

6. EL ARABY WONDERED ABOUT ALTERNATIVE OF MORE BROADLY BASED APPROACH TO COURT ON LEGALITY OF VARIETY OF ISRAELI ACTIVITIES IN OCCUPIED TERRITORIES, INCLUDING E.G., SETTLEMENTS, DEMOLITION OF PROPERTY, TRANSFER OF POPULATION. DEPTOFFS OPINED THAT FRAMING QUESTION IN THIS WAY WOULD BE WIDELY PERCEIVED AS ENGAGING BROADER POLITICAL AND SECURITY ISSUES. THIS, IN TURN, WOULD NOT ONLY ENSURE NEGATIVE ISRAELI RESPONSE, BUT ALSO WOULD PROVIDE MORE POLITICALLY CREDIBLE GROUNDS FOR THAT REFUSAL AND DIMINISH BENEFITS TO EGYPT FROM SUCH A COURSE. EL ARABY COUNTERED BY POINTING OUT ADVANTAGE OF THIS COURSE TO EGYPT IN ATTENUATING ARAB CRITICISM.

7. ANOTHER ALTERNATIVE WHICH EL ARABY PERCEIVED TO BE ATTRACTIVE FROM GOE POINT OF VIEW WAS OPTION OF SEEKING UNGA REQUEST TO ICJ FOR ADVISORY OPINION RE UNLAWFULNESS OF OIL ACTIVITY OR BROADER RANGE OF QUESTIONS. COMPANY REPS AND DEPTOFFS NOTED THAT ISRAEL LIKELY WOULD NOT FEEL BOUND BY AN ADVISORY OPINION; THAT INTERIM RELIEF WOULD NOT BE AVAILABLE IN SUCH PROCEEDINGS; AND THAT ADVISORY OPINION ROUTE WOULD NOT BE FORECLOSED IF EGYPT FIRST SOUGHT ISRAEL'S AGREEMENT TO SUBMIT MATTER TO ICJ FOR BINDING DECISION.

8. EL ARABY INDICATED THAT HE WOULD CONSULT FURTHER WITH HIS GOVERNMENT ON PROBLEM AND THAT HE MIGHT BE BACK IN TOUCH WITH DEPARTMENT BEFORE LEAVING U.S. HE ASKED IF, AT SOME POINT, USG MIGHT TAKE INITIATIVE TO INVITE GOI AND GOE TO SUBMIT CASE FOR DECISION TO ICJ. DEPARTMENT OFFICERS SAID THAT THIS WAS WORTH LOOKING INTO IF IT WAS OF INTEREST TO THE PARTIES, AND THEY WOULD GET BACK TO EL ARABY ON IT.

CONFIDENTIAL

CONFIDENTIAL

PAGE 05 STATE 154423

9. DEPTOFFS NOTED REPEATEDLY THAT THEY WERE NOT PRESENTING ANY USG POSITION ON HOW TO HANDLE OIL DISPUTE, BUT MERELY INFORMALLY EXCHANGING VIEWS. EL ARABY ACCEPTED THIS.

10. AFTER MEETING JAMES TOLD DEPARTMENT OFFICER THAT GOE IS CONSIDERING UNSPECIFIED ACTION AGAINST SUPERIOR OIL BASED ON FACT THAT THAT COMPANY HOLDS EGYPTIAN CONCESSION AND ALSO IS A PART OWNER IN NEPTUNE OPERATIONS.

11. COMMENT: IT WAS APPARENT THROUGHOUT CONVERSATION THAT GOE HAS NOT CLEARLY DEFINED IMMEDIATE OBJECTIVES--I.E. WHETHER TO SEEK PRACTICAL SOLUTION WHEREBY ISRAELI ACTIVITIES WOULD CEASE, OR WHETHER TO SEEK TO MAKE THIS YET ANOTHER POLITICAL ISSUE TO BE RESOLVED IN CONTEXT OF GENERAL SETTLEMENT. (WE OBVIOUSLY URGED THAT GOE KEEP THIS APART FROM BROADER ISSUES INsofar AS POSSIBLE.) NEWSOM

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